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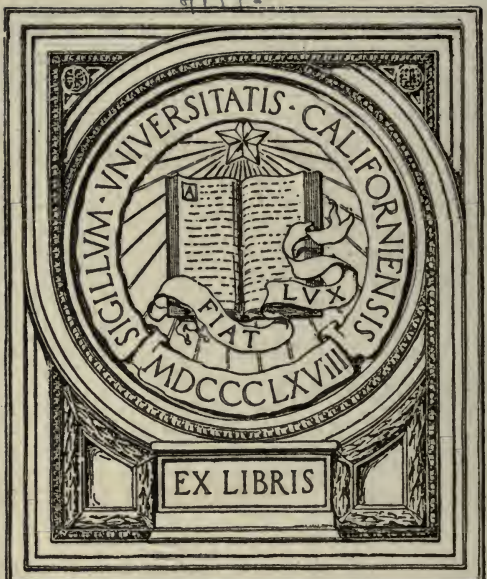

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Workmen's Compensation Law

of the

STATE OF MARYLAND

Revised With Amendments, May, 1916
Amendments Effective, April 26,
June 1 and November 1, 1916.

Workmen's Compensation Law

of the

State of Maryland

May, 1916

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Effect of 1916 Amendments to Workmen's Compensation Law

1. Employments Covered.
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8. Principal and Sub-contractor.
9. State Insurance.
10. Tax on Insurance Carriers.
11. Penalties.
12. Extra-Territorial Effect.

1. *Employments Covered.*

The list of hazardous employments enumerated in Group 41 is extended so as to include the operation of cars, trucks, wagons or other vehicles, rollers and engines drawn by horses and mules (§ 32).

A comprehensive definition of "mining" is given (§ 63[12]).

2. *Injuries Covered.*

Intoxication of the injured employee while on duty is made a bar to recovery only if injury results "solely" from such intoxication (§§ 14, 46.)

Compensation is payable for such disease or infection as may naturally (instead of "naturally and unavoidably," as formerly) result from injury (§ 63[6]).

3. *Medical and Surgical Aid.*

The provision barring the employee's recovery of any amount expended for medical treatment or services unless he or some one in his behalf shall have requested the employer to furnish the same and the employer shall have refused or neglected to do so, is eliminated (§ 37).

4. *Partial Disability.*

It is newly provided that for the loss of the fractional part of the vision of either one or both eyes compensation shall be paid in like proportion to the compensation for total loss of vision; and that wherever there has been an

amputation of a part of any member specified in the Act, or the loss of the use of any part thereof, for which compensation is not specifically provided, compensation shall be allowed for such proportion of the total time allowed for the amputation or loss of the use of such member as the affected or amputated portion thereof bears to the whole (§ 36[3]).

5. *Non-Resident Alien Beneficiaries.*

Compensation to non-resident alien dependent widows, children and parents is to be the same in amount as for residents; but the Commission may at any time within a year after the accident resulting in death convert future payments to such beneficiaries to a lump sum equal to three-fourths of the then value of such payments, but not to exceed $2,400. Payments may be made to consular representatives of such aliens (§ 36[4]).

6. *Appeals.*

A new section is added, providing that the clerk of any court to which a case is sent on appeal shall send to the Commission a certified copy of the docket entries and judgment of the court in each case heard and determined on appeal (§ 59A).

7. *How Compensation is Secured.*

The penalty of $500 to $5,000 fine incurred by an employer for failure to submit to the Commission the method he desires to adopt for assuring compensation is extended to the failure to procure insurance by one of the methods prescribed. The remission of such penalty in the discretion of the Court is subjected to the further proviso that the employer has paid or secured any compensation or other benefits under the Act which may have been awarded against him (§ 15).

The last three paragraphs of Section 15 as it stood before the amendment are omitted in the amended form of this section, possibly through inadvertence, as the reference to these paragraphs, which is found in the concluding paragraph of the amended section, indicates that the Legislature had no intention of eliminating them. Should it be held that these three paragraphs are nevertheless ineffective, it would result in abolishing the procedure outlined for employers in the matter of selecting a plan for the insurance of compensation, and in abrogating the power of the Commission to compel insurance in the State Fund and to enforce the payment of premiums therein as heretofore provided. The opinion of the Attorney for the Maryland State Industrial Accident Commission is that the last three paragraphs of Section 15 are repealed.

8. *Principal and Sub-Contractor.*

A new section is added, which provides that a principal shall be liable for compensation to employees of his sub-contractor if engaged in any work which is a part of the principal's trade, business or occupation. In such a case the principal is entitled to indemnity from his sub-contractor for compensation paid. The employee, however, may file his claim directly against

his immediate employer, the sub-contractor; and if he files it against the principal, the latter may bring in his sub-contractor or any intermediate contractor as co-defendant (§60A).

9. *State Insurance.*

Notice of intention to withdraw from the State Fund need not be in writing. Employers withdrawing from such Fund, instead of being subject to assessment and to the requirement of depositing with the State Treasurer a sum sufficient to cover any accrued liability or purchasing an annuity, are now required to assure compensation to their employees by one of the other methods specified in the Act (§ 26).

It is newly provided that the entire expense of administering the State Accident Fund shall be paid in the first instance out of the general appropriation for the administrative expenses of the Commission, but that after January 1, 1918, and annually thereafter, there shall be a strict apportionment of the expenditures in the administration of such Fund for the preceding year, and the amount thereof shall be refunded to the State Treasury. In addition, the State Fund must bear its proportionate share of the general administrative expenses of the Commission (§27). *See also caption 10,* "TAX ON INSURANCE CARRIERS."

The liability of the State in conection with the administration of the State Accident Fund is no longer limited to the amount of such Fund (§ 16).

The premiums for insurance in the State Fund are to be paid every four months, instead of quarterly (§ 17).

10. *Tax on Insurance Carriers.*

The provision for the assessment on insurance carriers for the expense of administering the Act is modified by segregating the expense of administering the State Accident Fund, and making that Fund liable for its own administrative expenses, in addition to its liability for a proportionate share of the general administrative expense. This assessment is to be based on the aggregate payrolls of the employers insured with the respective insurance carriers, including the State Fund, or, in case of a self-insuring employer, on his aggregate payroll, for the preceding year (beginning with 1917); and the total assessment for any one year is limited to $60,000. Payment of such tax may be enforced by civil action in the name of the State (§ 27).

11. *Penalties.*

Failure to insure compensation by one of the methods prescribed by the Act is made a misdemeanor, punishable by $500 to $5,000 fine (§ 15). The paragraph formerly included in this section, which imposed a penalty of an amount equal to six months' premiums or taxes for State insurance in case

of an employer's failure or refusal to insure in such Fund within ten days after demand by the Commission, has been omitted in the amended form. *See also caption 7,* "HOW COMPENSATION IS SECURED."

12. *Extra-Territorial Effect.*

In mining industries, the employee shall be deemed to be wholly employed within the State and entitled to the benefits of the Act, if the tipple, mouth or principal entrance in and about which he works, is situated within the State, even though such employee be injured while working in some part of the mine extending underground into an adjoining State (§63[12]).

Digest of the Maryland Workmen's Compensation Law*

TITLE, ETC.

Chapter 800, Laws of 1914; effective November 1, 1914 (§ 66). Incorporated in Annotated Code of Maryland, Bagby's Edition, Vol. 3, as Article CI—WORKMEN'S COMPENSATION. As amended by Laws of 1916, Chapter 597, effective April 26, 1916; Chapter 86, effective June 1, 1916; Chapter 379, effective June 1, 1916; Chapter 368, effective November 1, 1916.

SYSTEM PROVIDED FOR.

Compensation, compulsory, with State or other insurance or proof of financial responsibility (§§ 14, 15). Supervised by "State Industrial Accident Commission" (§§ 1-13).

EMPLOYMENTS COVERED.

Extra hazardous employments enumerated (§32) carried on by employer for pecuniary gain (§ 63), including public employments therein, unless equal or more beneficial provision is otherwise made (§ 35); but farm laborers, domestic servants, country blacksmiths, wheelwrights and similar rural employments, casual employees and any employee whose salary exceeds $2,000 a year are expressly excluded (§63). Any other employment may be brought under the Act by joint election (§33).

EMPLOYMENT IN INTERSTATE COMMERCE

Act applies to employers and employees engaged in intrastate and also in interstate or foreign commerce for whom a liability or compensation law may be established by Congress, only to the extent that their mutual connection with intrastate work is clearly distinguishable from interstate or foreign commerce; but any such employer and his employees working wholly within the State may, with the approval of the Commission and if not forbidden by Congress, accept the provisions of the Act (§33). Or employer may agree with employee to pay compensation under Federal compensation act, if any should be enacted (§34).

INJURIES COVERED.

Accidental personal injuries arising out of and in course of employment, and such disease or infection as may naturally result therefrom, unless self-inflicted or due to wilful misconduct or resulting solely from injured employee's intoxication (§§ 14, 46, 63).

*The headings of this Digest conform in substance and order with those of the "Digest of Workmen's Compensation Laws in the United States and Territories" (compiled by F. Robertson Jones and published by the Workmen's Compensation Publicity Bureau, 80 Maiden Lane, New York City)—so that the former supplements the latter.

NOTICE OF INJURY AND CLAIM FOR COMPENSATION

Written notice of injury must be given to employer within 10 days after accident, and also, in case death results, within 30 days after death. Failure to give notice is no bar to compensation if excused by Commission on the ground that notice could not have been given or that employer or the State Fund was not prejudiced thereby (§38). Claim must be filed with Commission within 30 days (§39).

WAITING PERIOD.

First two weeks after injury (§ 49); but in case of permanent total disability one week (§ 36[1]).

MEDICAL AND SURGICAL AID.

Employer must furnish medical or hospital services, etc., as required by the Commission, not to exceed $150 in value. If employer fails to provide same employee may do so at employer's expense (§37).

COMPENSATION FOR TOTAL DISABILITY.

If permanent, 50% of average weekly wages; maximum $12, minimum $5 or full wages, weekly during continuance of disability, but not to exceed in aggregate $5,000. If temporary, same payments to continue during disability, but not longer than six years nor to exceed in aggregate $3,750 (§36).

COMPENSATION FOR PARTIAL DISABILITY.

If permanent, special schedule for loss of certain members, etc.; in other cases 50% of impairment of earning capacity, maximum $12 weekly during incapacity, but not to exceed in aggregate $3,000. If temporary, same payments during incapacity, but not to exceed in aggregate $3,500 (§36).

COMPENSATION FOR DEATH.

In all cases, except as noted below, reasonable funeral expenses, maximum $75. To wholly dependent, 50% of average weekly wages, to continue for remainder of period between date of death and 8 years after injury; maximum $4,250, minimum $1,000. To partly dependent, same payments to continue for such portion of 8-year period as Commission may determine, maximum $3,000. If no dependents, funeral expenses, as above, unless the deceased has left sufficient estate to defray same (§§36,37).

EFFECT OF PREVIOUS DISABILITY.

In case of further injury to employee previously disabled, future compensation is to be adjusted with regard to the combined effect of injuries and past receipt of compensation (§43).

AVERAGE WAGES—HOW COMPUTED.

Average weekly wages are to be based on full time employment (§63[8]). Regard may also be had to the fact that employee was of such age and experience that his wages would be expected to increase (§47).

WHO ARE DEPENDENTS.

Certain persons are presumed wholly dependent. In all other cases dependency is to be determined in accordance with facts at the time of injury. Dependents are limited to lineal descendants, ancestors, spouse, brothers and sisters (§§36, 43).

NON-RESIDENT ALIENS.

Compensation to non-resident alien dependent widows, children and parents is to be the same in amount as for residents; but the Commission may at any time within a year after the accident resulting in death convert future payments to such beneficiaries into a lump sum equal to three-fourths of the then value of such payments, but not to exceed $2,400. Payments may be made to consular representatives of such aliens (§36[4]).

MEDICAL EXAMINATION.

Injured employee must submit to medical examination from time to time at a reasonably convenient place, as required by the Commission. Refusal to submit forfeits right to compensation for period of refusal (§42).

SETTLEMENT OF CLAIMS AND DISPUTES.

Terms of compensation must be settled by the Commission or by an arbitration committee appointed by the Commission (§40).

RIGHT OF APPEAL.

From the Commission's decision appeal lies to the Circuit Court or to the Common Law Courts of Baltimore. Final appeal may be had to the Court of Appeals (§56). *Brenner v. Brenner, 96 Atl. 287; Frazier & Son v. Leas, id.* 764.

MODIFICATION OF AGREEMENTS AND AWARDS.

The Commission may from time to time make such modifications of awards as in its opinion may be justified (§54), or may, upon its own motion or upon the application of either party, readjust or terminate payments, on the ground of change in conditions (§§40, 43).

COMMUTATIONS.

In every case except temporary disability, the Commission may allow compensation to be paid in partial or total lump sum (§51). If beneficiary has resided outside of the State for a year the Commission may convert future payments into a lump sum by paying three-fourths of the then value thereof, not to exceed $2,400 (§44).

PREFERENCE.

No provision as to the preference of a claim for compensation over other claims against the employer's assets.

ASSIGNMENTS AND EXEMPTIONS.

Claims for compensation may not be assigned, charged or taken in execution or attachment prior to the issuance and delivery of warrant or voucher therefor (§52).

HOW COMPENSATION IS SECURED.

Employers must secure payment of compensation by either (1) insuring in the State Accident Fund, (2) insuring in a stock corporation or mutual association authorized to transact the business of workmen's compensation insurance in the State, or (3) furnishing proof of financial ability to pay compensation direct, in which case the Commission may require deposit of security (§15).

METHOD OF PAYMENT AND PROCEEDINGS TO COLLECT.

All claims for compensation must be presented to the Commission; payments to be made directly to employee by employer or insurer on Commission's award (§§39-40).

ATTORNEYS' LIENS AND FEES.

Claims for legal services, medical treatment, etc., are not enforceable unless approved by the Commission. If so approved, they become a lien upon compensation awarded, but are payable only in the manner fixed by the Commission (§57).

MINORS AND INCOMPETENT PERSONS.

A minor working at an age legally permitted is deemed *sui juris* (§48). Where right of election exists, as to minor under 16, it must be exercised by parent or guardian (§33).

WHERE INJURY IS CAUSED BY THIRD PARTY.

If an employee has a right of action against a third party, he may elect either to bring suit against such third party or to claim compensation. In the latter event, the employer, for the benefit of himself or his insurer, may enforce the liability of such third party; but any amount recovered in excess of compensation shall be paid to employee (§58).

PRINCIPAL AND SUB-CONTRACTOR.

A principal is liable for compensation to employees of his sub-contractor engaged in any work which is a part of the principal's trade, business or occupation; but the principal is entitled to indemnity from his sub-contractor for compensation paid. The employee may, however, file his claim directly against his immediate employer, the sub-contractor; and if he files it against the principal, the latter may bring in his sub-contractor or any intermediate contractor as co-defendant (§60A).

SUITS FOR DAMAGES.

If injury results from the deliberate intention of the employer, the employee may elect either to take compensation or to sue for damages (§45). If the employer fails to secure payment of compensation as required, the employee may either demand compensation or bring suit for damages, with the defenses of contributory negligence, assumption of risk and fellow servant's fault abrogated (§14).

ACCIDENT PREVENTION.

No provision.

REPORTS REQUIRED OF EMPLOYER OR INSURER.

Employer must make immediate report of accident, to the Commission (§38). If insured in State Fund, employer must report on pay roll every 4 months (§21). The Commission may require additional reports (§§15[3], 27).

POSTING NOTICES.

No provision.

CONTRACTING OUT.

Agreements to waive right to compensation, or for employees' contributions to insurance premiums, are void (§53).

INSURANCE.

General Provisions.

Insurance policies must be approved as to form by the Commission; they are deemed subject to the provisions of the Act and must provide that the Commission may enforce them, that notice to the employer shall be deemed notice to the insurer, that the insolvency of the employer shall not discharge insurer; and must cover entire liability for compensation. Policies may be canceled only upon notice to the Commission (§§29-31). Beginning with the year 1917, the administrative expenses of the Commission are to be assessed against insurance carriers in proportion to the aggregate payrolls of the employers insuring with each (§27).

Stock Companies.

Employer may insure with any stock corporation authorized to transact compensation insurance in the State (§15).

Mutual Insurance.

Employer may insure his liability with any authorized mutual association (§15).

State Insurance.

The Act provides for the creation of the State Accident Fund, to be administered by the Commission and maintained by premiums of subscribing employers. Delinquent payments may be recovered by the Attorney General

in a civil action. Subscribers may withdraw after one year upon 60 days' notice to the Commission and payment of arrears and upon assuring compensation by one of the other methods prescribed by the Act (§§16-26).

Regulation of Rates.

Rates of premiums for State insurance are fixed by the Commission, based on amount of payroll and classification of risk (§§17-19). Rates of insurance companies or associations are subject to regulation by the Insurance Commissioner (§29).

PENALTIES.

Employer's failure to submit to the Commission his choice of a plan for securing compensation, or failure to secure compensation as required, is a misdemeanor, punishable by $500 to $5,000 fine (§15). For failure to report on payroll, if insured in State Fund, civil penalty of $100 is incurred. Employer insuring in the State Fund who fraudulently misrepresents amount of payroll on which his premium is based is liable for ten times the difference between premium paid and amount which should have been paid (§21). Fraud or misrepresentation in claim for compensation is punishable by $500 fine or 12 months' imprisonment, or both (§41). If employee is injured through absence of safeguard or protection required by Commission, employer is liable to fine of $50—$500 (§55). Employer who deducts from wages any amount toward insuring compensation is guilty of a misdemeanor, punishable by fine of $200 (§53).

EXTRA-TERRITORIAL EFFECT.

The Act does not apply to workmen employed wholly without the State, except as to mining employees who are injured while working in some part of the mine extending underground into an adjoining State, if the tipple, mouth or principal entrance of such mine is situated within the State (§63[3, 12]).

CONSTITUTIONALITY.

No provision.

MISCELLANEOUS PROVISIONS.

If proceedings before the Commission or Court are not brought on reasable ground, entire cost thereof may be assessed upon party bringing same (§57). If compensation provisions are held invalid, the period between injury or death and such adjudication is not to be computed as part of the time limitation for commencement of action for damages (§59).

TEXT OF THE LAW

ARTICLE CI.

WORKMEN'S COMPENSATION.

(As incorporated in Annotated Code of Maryland, Vol. 3, Bagby's Edition)

*AN ACT to promote the general welfare of this State by providing compulsory insurance against accident or death of workmen engaged in extra-hazardous employments in this State, and providing for the form, kind and method of such insurance and the incidents thereto; and providing for the amounts of compensation payable thereunder and the person or persons to whom such compensation is payable; and providing for the creation of a State Industrial Accident Commission and defining its powers; and providing for the creation of a State Accident Fund; and providing for an appropriation to carry out the provisions of this Act; and providing for the abolishment in certain cases of the defenses of "Assumption of Risks," "Contributory Negligence" and the "Negligence of a Fellow Servant" in actions for personal injury and death, and to repeal Chapter 837 of the Acts of 1912, and to repeal Chapter 139 of the Acts of 1902; Chapter 153 of the Acts of 1910 as amended by the Acts of 1912, Chapter 445, and to provide for the equitable disposition of the funds created by virtue of the said Acts of 1902, Chapter 139, and the Acts of 1910, Chapter 153.

**Whereas,* the State of Maryland recognizes that the prosecution of various industrial enterprises which must be relied upon to create and preserve the wealth and prosperity of the State involves injury to large numbers of workmen, resulting in their partial or total incapacity or death, and that under the rules of the common law and the provisions of the statutes now in force an unequal burden is cast upon its citizens, and that in determining the responsibility of the employer on account of injuries sustained by his workmen, great and unnecessary cost is now incurred in litigation, which cost is borne by the workmen, the employers and the taxpayers, in part, in the maintenance of courts and juries to determine the question of responsibility under the law as it now exists; and

**Whereas,* in addition thereto, the State and its taxpayers are subjected to a heavy burden in providing care and support for such injured workmen and their dependents, which burden should, in so far as may be consistent with the rights and obligations of the people of the State, be more fairly distributed as in this Act provided; and

**Whereas,* the common law system governing the remedy of workmen against employers for injuries received in extra-hazardous work is inconsistent with modern industrial conditions; and injuries in such work, formerly occasional, have now become frequent and inevitable.

**Now, Therefore,* The State of Maryland, exercising herein its police and

*The title and enacting clauses of Chapter 800, Acts of 1914, have been omitted from the Code, but are reprinted here.

sovereign power, declares that all phases of extra-hazardous employments be, and they are hereby withdrawn from private controversy, and sure and certain relief for workmen injured in extra-hazardous employments and their families and dependents are hereby provided for, regardless of questions of fault and to the exclusion of every other remedy, except as provided in this Act.

§ 1. **State Industrial Accident Commission.** A Commission is hereby created which shall be known as the State Industrial Accident Commission, to be composed of three Commissioners. Immediately upon the taking effect of this Article, the Governor shall appoint such Commissioners (not more than two of whom shall belong to the same political party). One of them shall hold office for the first two years, another for the first four years, and another for the first six years following the passage and approval of this Article. Thereafter the term shall be six years. Each Commissioner shall devote his entire time to the duties of the office, and shall not hold any position of trust or engage in any occupation or business interfering or inconsistent with his duties as such Commissioner, or serve on or under any committee of a political party. Each Commissioner shall hold office until his successor shall be appointed and shall have qualified. Vacancies shall be filled by the Governor for the unexpired term. A decision on any question arising under this Article concurred in by two of the Commissioners shall be the decision of the Commission. The Governor may at any time remove any Commissioner from office for inefficiency, neglect of duty or malfeasance in office. Before such removal he shall give such Commissioner a copy of the charges against him and shall fix a time when he can be heard in his own defense, either in person or by counsel, which shall not be less than ten days thereafter, and such hearing shall be open to the public. The Governor shall designate a member of said Commission as Chairman thereof. The principal office of the Commission shall be in the City of Baltimore, but branch offices may be established at other places in the State for the purpose of administering this Article. [1914, ch. 800, sec. 1.]

§ 2. A majority of the Commission shall constitute a quorum for the transaction of business, and a vacancy shall not impair the right of the remaining members to exercise all the powers of the full Commission, so long as a majority remains. Any investigation, inquiry or hearing which the Commission is authorized to hold, or undertake, may be held or undertaken by or before any one member of the Commission, and every order made by a member thereof, when approved and confirmed by a majority of the members and so shown on its record of proceedings, shall be deemed to be the order of the Commission. [1914, ch. 800, sec. 2.]

§ 3. The salary of each of the Commissioners shall be three thousand dollars ($3,000.00) *per annum,* and shall be paid out of the State Treasury, and in addition to the said sum of $3,000 *per annum,* each of said Commissioners shall also receive the sum of $2,000 *per annum* which shall be paid out of its funds by the Mayor and City Council of Baltimore to each of said Commissioners as employes of said municipal corporation. In addition to the salary provided in this Section, each Commissioner shall be allowed his actual and necessary traveling and incidental expenses. [1914, ch. 800, sec. 3.]

§ 4. The Commission shall be in continuous session and open for the transaction of business during all business hours of each and every day, excepting Sundays and legal holidays. All sessions shall be open to the public, and shall stand and be adjourned without further notice thereof on its record. All proceedings of the Commission shall be shown on its record of proceedings, which shall be a public record, and shall contain a record of each case considered and the award paid or allowed to any employe of the Commission, or to any other person for services. Provided, however, that any person in the employ of the Commission who shall divulge any information secured by him in respect to the transactions, property or business of any person, firm, company or corporation, association or joint partnership to any person other than the members of the Commission, shall be guilty of a misdemeanor, and subject to a fine of not less than $100 or more than $500 or imprisonment, not exceeding 18 months in the discretion of the Court, and shall thereafter be disqualified from holding any appointment or employment with the Commission. [1914, ch. 800, sec. 4.]

§ 5. The Commission may employ a secretary, actuaries, accountants, inspectors, examiners, experts, clerks, stenographers and other assistants, and fix their compensation subject to the written approval of the Governor; such compensation shall be paid out of the appropriation in the State Treasury provided for in this Article. The secretary, actuaries, accountants, inspectors, examiners, experts, clerks, stenographers and other assistants that may be employed shall be entitled to receive their actual necessary expenses while traveling on the business of the Commission. Such expenses shall be itemized and sworn to by the person who incurred the expense, and allowed by the Commission. The Commission shall keep and maintain its main office and such branch offices as it shall deem proper and necessary for the administration of the Article, and shall provide suitable rooms, necessary office furniture, supplies, books, periodicals and maps for the same. All necessary expenses shall be audited and paid out of the appropriation in the State Treasury provided for in this Article. It shall provide itself with a seal for the authentication of its orders, awards and proceedings, upon which shall be inscribed the words "State Industrial Accident Commission, State of Maryland—Official Seal."

Each member of the Commission and each person appointed to office or employment by the Commission shall before entering upon the duties of his office or employment take and subscribe the constitutional oath of office. [1914. ch. 800, sec. 5.]

§ 6. The Secretary of the Commission shall keep and maintain a full and true record of all proceedings of the Commission, of all documents or papers ordered filed by the Commission or by its rules, of decisions or orders made by any member of the Commission and of all decisions or orders made by the Commission or approved and confirmed by it and ordered filed, and he shall be responsible to the Commission for the safe custody and preservation of all such documents at its office. He shall have the power to administer oaths in all parts of the State, so far as the exercise of such power is properly incident to the performance of his duty or that of the Commission. He may designate, from time to time with the approval of the Commission,

one of the clerks of the office appointed by the Commission to exercise the powers and duties of the secretary during his absence. Under the direction of the Commission, the secretary shall have general charge of its office, superintend its clerical business and perform such other duties as the Commission may prescribe. [1914, ch. 800, sec. 6.]

§ 7. Each member of the Commission, the Secretary thereof, and any special examiner or inspector shall for the purpose contemplated by this Article have power to issue subpœnas, compel the attendance of witnesses, administer oaths, certify to official acts, take depositions within or without the State of Maryland as now provided by law, compel the production of pertinent books, payrolls, accounts, papers, records, documents and testimony.

If a person in attendance before the Commission or a Commisioner refuse, without reasonable cause, to be examined or to answer a legal and pertinent question, or to produce a book or paper when ordered to do so by the Commission, the Commission may apply to any Judge of the Supreme Bench of Baltimore City, or of the Circuit Court of any County, upon proof by affidavit of the fact, for a rule or order returnable in not less than two or more than five days, directing such person to show cause before the Judge who made the order, or any other Judge aforesaid, why he should not be committed to jail; upon the return of such order, the Judge before whom the matter and such person shall come on for a hearing shall examine under oath such person and such person shall be given an opportunity to be heard; and if the Judge shall determine that such person has refused, without reasonable cause or legal excuse, to be examined or to answer a legal or pertinent question, or to produce a book or paper which he was ordered to bring or produce, he may forthwith commit the offender to jail, there to remain until he submits to do the act which he was so required to do, or is discharged according to law.

No person shall be excused from testifying or from producing any books or papers or documents in any investigation or inquiry by or upon any hearing before the Commission or any Commissioner, when ordered to do so by the Commission or its Secretary upon the ground that the testimony or evidence, books, papers, or documents required of him may tend to incriminate him or subject him to penalty or forfeiture; but no person shall be prosecuted, punished or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing concerning which he shall, under oath, have, by order of the Commission or a Commissioner or its inspector or examiner, testified to or produced documentary evidence of; provided, however, that no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in his testimony. [1914, ch. 800, sec. 7.]

§ 8. Each officer who serves such subpœna shall receive the same fee as the Sheriff would receive in the county or city where said witness is subpœnaed, and each witness who appears in obedience to a subpœna, before the Commission or an inspector or an examiner, shall receive for his attendance the fees and mileage provided for witnesses in civil cases in the Circuit Courts of the Counties or the Common Law Courts of Baltimore City, as of the place where he gives his testimony, which shall be audited and paid from

the State Treasury in the same manner as other vouchers approved by any member of the Commission and the Secretary. No witness subpœnaed at the instance of a party other than the Commission, or an inspector or examiner, shall be entitled to compensation from the State Treasury unless the Commission shall certify that his testimony was material to the matter investigated. In an investigation, the Commission may cause depositions of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions taken in cases pending before the Circuit Courts of the Counties or the Common Law Courts of Baltimore City, as is now or hereafter may be provided by law. [1914, ch. 800, sec. 8.]

§ 9. Subject to the provisions of this Article, the State Industrial Accident Commission shall adopt reasonable and proper rules to govern its procedure, which procedure shall be as summary and simple as reasonably may be. It shall regulate and provide for the kind and character of notices, and the services thereof, and in cases of injury by accident to employes, the nature and extent of the proofs and evidence and the method of taking and furnishing the same for the establishment of the right to compensation. It shall determine the nature and forms of application of those claiming to be entitled to benefits or compensation, and shall regulate the method of making investigations, physical examinations and inspections and prescribe the time within which adjudications and awards shall be made, provided, always, that all such rules and regulations shall conform to the provisions of this Article. [1914, ch. 800, sec. 9.]

§ 10. The Commission shall not be bound by the usual common law or statutory rules of evidence or by any technical or formal rules of procedure, other than as herein provided, but may make the investigation in such manner as in its judgment is best calculated to ascertain the substantial rights of the parties and to carry out justly the spirit of this Article. [1914, ch. 800, sec. 10.]

§ 11. A transcribed copy of the evidence and proceedings or any specific part thereof of any investigation taken by a stenographer appointed by the Commission being certified and sworn to by such stenographer, to be a true and correct transcript of the testimony, or of a particular witness, or any specific part thereof, or to be a correct transcript of the proceedings had on such investigation so purporting to be taken and subscribed, may be received in evidence by the Commission with the same effect as if such stenographer were present and testified to the facts certified. A copy of such transcript shall be furnished on demand to any party in interest upon payment of the fee therefor, as provided for transcripts in the Circuit Courts of the Counties or the Common Law Courts of Baltimore City. [1914, ch. 800, sec. 11.]

§ 12. The Commission shall prepare and furnish free of cost blank forms and provide in its rules for their distribution so that the same may be readily available, of applications for benefits or compensation notices, to employers, proof of injury or death, of medical attendance, of employment and wage earnings and such other blanks as may be deemed proper and advisable, and it shall be the duty of employers to constantly keep on hand a sufficient supply of such blanks. [1914, ch. 800, sec. 12.]

§ 13. Annually on or before the first day of January the State Industrial Accident Commission shall make a report to the Governor, which shall include a statement of the number of awards made by it, the causes of the accidents leading to the injuries for which the awards were made, and a detailed statement of the expenses of the Commission and the condition of the State Accident Fund, together with any other matters which the Commission deems proper to report to the Governor, including any recommendations it may desire to make. [1914, ch. 800, sec. 13.]

SUIT. METHODS OF INSURANCE.

§ 14. [*As amended by Chapter* 597, *Acts of* 1916.] Every employer subject to the provisions of this Article shall pay or provide as required herein compensation according to the schedules of this Article for the disability or death of his employe resulting from an accidental personal injury sustained by the employe arising out of and in the course of his employment without regard to fault as a cause of such injury, except where the injury is occasioned by the wilful intention of the injured employe to bring about the injury or death of himself or of another, or where the injury results solely from the intoxication of the injured employe while on duty. Where the injury is occasioned by the wilful intention of the injured employe to bring about the injury or death of himself or of another, or where the injury results solely from the intoxication of the injured employe while on duty, neither the injured employe nor any dependent of such employe shall receive compensation under this Article.

The liability prescribed by the last preceding paragraph shall be exclusive, except that if an employer fail to secure the payment of compensation for his injured employes and their dependents as provided in this Article, an injured employe or his legal representative in case death results from the injury, may, at his option, elect to claim compensation under this Article, or to maintain an action in the Courts for damages on account of such injury; and in such an action the defendant may not plead as a defense that the injury was caused by the negligence of a fellow servant or that the employe assumed the risk of his employment, or that the injury was due to the contributory negligence of the employe. If an employer, besides employing workmen in extra-hazardous employment within the meaning of this Article, shall also employ workmen in employments not extra-hazardous, the provisions of this Article shall apply only to the extra-hazardous employments within the meaning of this Article and the workmen employed therein, except as provided in Section 33 of this Article. [1914, ch. 800, sec. 14.]

§ 15. [*As amended by Chapter* 597, *Acts of* 1916.] The employer shall secure compensation to his employes in one of the following ways:

(1) By insuring and keeping insured the payments of such compensation in the State Accident Fund, or

(2) By insuring and keeping insured the payments of such compensation with any stock corporation or mutual association authorized to transact the business of Workmen's Compensation Insurance in this State.

(3) Any such employer who does not with the approval of said Com-

mission voluntarily insure the payment of the compensation by one of the methods designated in the preceding paragraphs of this section, must furnish satisfactory proof to the Commission of his financial ability to pay such compensation himself, in which case the Commission may, at any time and from time to time in its discretion, require the deposit with the Commission of securities, such as are accepted by the Equity Courts of Baltimore City for the investment of trust funds and in an amount or amounts to be determined by the Commission, to secure the liability of the employer to pay the compensation specified in this Article; and in order to be informed as to the continued financial responsibilities of any such employer the Commission may require reports from him annually or at such other times as the Commission may deem necessary or advisable and may examine such employer under oath or make such other examination of his business as the Commission may determine. If he should fail to furnish such satisfactory proof, or give bond, or deposit such securities as required by the Commission, or if he should at any time fail to render satisfactory reports to the Commission or otherwise satisfy the Commission of his continued financial ability to pay the compensation himself, he shall be subject to the provisions of the first paragraph of this Section of this Article and shall be required by the Commission to insure as provided in the first pargraph of said this Section, unless he, at once, insure voluntarily as provided in the second paragraph of this Section.

Any employer, subject to the provisions of this Article, who, after November first, nineteen hundred and fourteen, fails or refuses to submit to said Commission, as provided in the next succeeding paragraphs, the method he desires to adopt for assuring compensation, or who shall fail to secure insurance by one of such methods, shall be guilty of a misdemeanor, and shall be subject to a fine of not less than five hundred nor more than five thousand dollars. The Court may, in its discretion, remit any such penalty, provided the employer in default assures the compensation as provided in this Section; and provided further that he has paid or secured to be paid any compensation or other benefits under this Article which may have been awarded against him. [1914, ch. 800, sec. 15.]

[* Any such employer who may wish to adopt any one of the methods mentioned in the preceding paragraphs for assuring the payment of compensation to his employes and their dependents, shall first submit to the State Industrial Accident Commission the method he wishes to adopt. The said Commission may approve or reject the method proposed. If rejected, the employer may submit another method authorized under this Article. The said Commission may from time to time revise or alter its decision in approving the election of any employer to adopt any one of the methods of assuring payment of the compensation as provided for in this Article, if such action is reasonably necessary to secure and safeguard such payments to employes or for the diminishing and prevention of accidents. Any decision of said Commission under this Section or Section 14 of this Article

*These last three paragraphs were dropped out of Section 15 as amended and re-enacted by Chapter 597, Acts of 1916; but we have retained them, as the paragraph immediately preceding refers to them. In the opinion of the Attorney for the Maryland State Industrial Accident Commission, however, the last three paragraphs of Section 15 are repealed.

may be reviewed by writ of *certiorari* in the Circuit Court for the county in which the employer may reside or in any of the Common Law Courts of Baltimore City, if the employer resides in Baltimore City.

[* Any employer subject to the provisions of this Article, who fails or refuses to insure voluntarily the payment of the compensation specified in this Article to his employes and their dependents through one of the methods of assurance of payment, mentioned in the second paragraph of this Section of this Article, or fails to furnish satisfactory proof to the Commission of his financial ability to pay such compensation himself, or give bond or deposit securities as aforesaid shall, at any time after November first, nineteen hundred and fourteen, be compelled by the Commission to insure to his employes and their dependents the payment of the compensation, specified in this Article, by paying to the State Treasurer for the use and benefit of the State Accident Fund, hereinafter authorized to be established, the premiums or taxes levied and published by the Commission for the group of employments, industries or works to which such employer belongs. And any such employer who fails or refuses to so insure within ten days, after being ordered by the Commission to do so, shall be liable to the State in an amount equal to the premiums or taxes required of him for six months' insurance in the State Accident Fund, as a penalty, which, together with his premium or tax due the State Accident Fund for the first six months, may be collected by the Commission in the same manner and with the same effect as provided in Section 22 of this Article for the collection of premiums or taxes in default.

[* In exercising the discretion conferred upon it by this Section and Section 14 of this Article, the State Industrial Accident Commission shall consider the reputation of any insurance company or association, in which any such employer may desire to insure, for promptness and fairness in the settlement of compensation claims, without unreasonable resistance on the part of any such insurance company or association, and shall also consider the financial strength of the employer, the number of employes employed, the degree of hazard to employes engaged in the employment, the likelihood or danger of several employes being injured or killed by one and the same accident, the relative influence, the different methods, by which compensation may be assured under this Article, are likely to exert upon the employer and his employes for the prevention of accidents, and any other facts or conditions bearing upon the security and promptness of payment of the compensation and the prevention of accidents.]

STATE ACCIDENT FUND.

§ 16. [*As amended by Chapter 597, Acts of* 1916.] The State Industrial Accident Commission is hereby authorized and directed to create and establish a fund to be known as the "State Accident Fund," for the purpose of insuring employers against liabilty under this Article and to their employes and their dependents the payment of the compensation specified in this

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Article. Such fund shall consist of all premiums or taxes received and paid into the fund and of property and securities acquired and interest earned through the use of moneys belonging to the fund. Said fund shall be administered by the Commission and shall be applicable to the payment of losses sustained on account of insurance and to the payment of expenses in the manner provided in this Article. [1914, ch. 800, sec. 16.]

§ 17. [*As amended by Chapter* 597, *Acts of* 1916.] For the purpose of creating such State Accident Fund each employer insured in this Fund or required to be insured therein by this Article shall pay into the State Treasury the premiums of liability based upon and being such percentage of the payroll of such employer, as may have been determined and published by the Commission and be then in effect. The premiums shall be paid every four months, and shall be the prescribed percentage of the total wages paid to all employes subject to this Article for such preceding four month's period. The State Treasurer shall issue his receipt for any sums paid him hereunder in duplicate, the original to be delivered to the person, firm or corporation or other employer paying the same and the duplicate filed with the Commission; provided however, that in order to create a fund available upon the application of this Article as aforesaid on November first, one thousand nine hundred and fourteen, the payments for the months of November, one thousand nine hundred and fourteen, to February, inclusive, one thousand nine hundred and fifteen, shall be made on or before November first, one thousand nine hundred and fourteen, and be preliminarily based upon the payroll of the operations of the first four months of the year one thousand nine hundred and fourteen. If any employer be found to have overpaid for such four months he may deduct such overpayment from the next succeeding four month's payment made to the Fund; if any employer be found to have underpaid for such four months, he shall pay the deficiency with the payment made by him after the end of said four months [1914, ch. 800, sec. 17.]

§ 18. If a single establishment of work insured in the State Accident Fund comprises several occupations listed in Section 32 of this Article, the premium shall be computed according to the payroll of each occupation, if clearly separable; otherwise an average rate of premium shall be charged for the entire establishment, taking into consideration the number of employes and the relative hazards. In computing the payroll the entire compensation received by every workman employed in extra-hazardous work and insured in the State Accident Fund, within the meaning of this Article, shall be included, whether it be in the form of salary, wage, piece work, overtime, or any allowance in the way of profit-sharing, premium or otherwise, and whether payable in money, board or otherwise. Provided the money value of board and similar advantages shall have been fixed by parties at the time of hiring. [1914, ch. 800, sec. 18.]

§ 19. It shall be the duty of the Commission to classify any industries subject to this Article mentioned or not mentioned which are insured in the State Accident Fund. And the Commission shall have power on or before the first day of January of each year to reclassify such industries, or oftener, if in the opinion of the Commision the same should be deemed just and ad-

vantageous; or to create additional classifications with respect to their respective degrees of hazard and determine the risk of the different classes, and fix the rates of premium for each class, according to the risks of the same sufficiently large to guarantee a workmen's compensation fund from year to year. It shall be the duty of the Commision in determining the rates, in order to create a fund sufficiently large to guarantee a workmen's compensation fund from year to year to also re-classify from time to time the industries or occupations in order that there may be a flexible adjustment of the rates as the hazard fluctuates, and to use all means in their power through the rate adjustment to lessen the opportunities for injuries to the workmen. The classification so determined and the rates of premium established shall be applicable for such year; and based on each one hundred dollars of the gross annual payroll of each employer in any class; provided, also, that for the purpose of this Article the pay of the employe partly within and partly without the State shall be deemed to be such proportion of the total pay of such employe as his service within the State bears to his services outside the State. [1914, ch. 800, sec. 19.]

§ 20. The Commission may establish and require all employers insured in the State Accident Fund to install and maintain a uniform form payroll. The Commission shall ascertain and establish the amounts to be paid into and out of the Accident Fund. Issue proper receipts for moneys received, and certificates for benefits accrued and accruing from the State Accident Fund. [1914, ch. 800, sec. 20.]

§ 21. Every employer subject to the operation and effect of this Article who shall insure in the State Accident Fund, shall every four months submit a report to the Commission herein created, according to the regulations and requirements it may prescribe, of his payroll for the four months then ending. A failure to comply with this Section shall subject the employer to an extra contribution of one hundred dollars to be collected by the Commission in a civil action in its name. The amount collected under this Section shall be paid into the State Accident Fund.

Any employer who shall with fraudulent intent misrepresent to the Commission the amount of payroll upon which the premium under this Article is based shall be liable to the Commission in ten times the amount of the difference in the premium paid and the amount the employer should have paid. The liability to the Commission under this provision shall be enforced in a civil action in the name of the Commission. All sums collected under this Section shall be paid into the State Accident Fund. [1914, ch. 800, sec. 21.]

§ 22. If an employer shall default in any payment required to be made by him to the State Accident Fund, the amount due from him shall be collected by civil action against him in the name of the State of Maryland, and it shall be the duty of the Commission on the first Monday of each month after November first, nineteen hundred and fourteen, to certify to the attorney-general of the State the names and residences, or places of business of all employers known to the Commission to be in default for such payment or payments for a longer period than five days and the amount due from each employer, and it shall then be the duty of the attorney-general

forthwith to bring or cause to be brought against each employer a civil action in the proper court for the collection of such amount so due, and the same when collected, shall be paid into the State Accident Fund, and each employer's compliance with the provisions of this chapter requiring payments to be made to the State Accident Fund shall date from the time of the payment of said money so collected as aforesaid to the said Commission for credit to the State Accident Fund. [1914, ch. 800, sec. 22.]

§ 23. Ten *per centum* of the premiums collected from employers insured in the State Accident Fund shall be set aside by the Commission for the creation of a surplus until such surplus shall amount to the sum of fifty thousand dollars, and thereafter five *per centum* of such premiums until such time as in the judgment of said Commission such surplus shall be sufficiently large to cover the catastrophe hazard. The Commission shall also set up and maintain a reserve adequate to meet anticipated losses and carry all claims and policies to maturity. [1914, ch. 800, sec. 23.]

§ 24. The Treasurer of the State shall be the custodian of the State Accident Fund and all disbursements therefrom shall be paid by him upon order or voucher, approved and signed by the chairman or acting chairman and secretary of the Commission, and directed to the Comptroller of the State, who shall draw his warrant therefor. It shall be the duty of the Treasurer to keep and maintain the fund herein created separate and distinct from other State funds. On and after January 1st, 1915, the obligation in the bond of the State Treasurer shall contain a provision securing the protection of this fund. [1914, ch. 800, sec. 24.]

§ 25. Whenever and as often as there shall be in the hands of the Treasurer any sum belonging to the State Accident Fund not likely, in the opinion of the Commission, to be required for immediate use, it shall be the duty of the Board of Public Works, when called upon by the Commission, to invest the same in interest-bearing securities, such as are accepted by the equity courts of Baltimore City for the investment of trust funds, and when and as it may become necessary or expedient to use the moneys so loaned or invested the Board of Public Works shall, when called upon by the Commission, collect or sell or otherwise realize upon any such loan or investment, and any interest accruing upon any such loan or investment, as well as any interest received upon the deposit of moneys belonging to said fund shall be credited to said fund.

The State Treasurer may deposit any portion of the State fund not needed for immediate use, in the manner and subject to all the provisions of law respecting the deposit of other State funds by him. Interest earned by such portion of the State Accident Fund deposited by the State Treasurer shall be collected by him and placed to the credit of the fund. [1914, ch. 800, sec. 25.]

§ 26. [As amended by Chapter 379, Acts of 1916.] Any employer, after entering the State Accident Fund may withdraw from said fund after the period of one year upon giving sixty (60) days' notice of his intention so to do and upon paying all arrears, if any, of premiums due the said fund, and upon assuring compensation to his employes by one of the other methods specified in the Article. [1914, ch. 800, sec. 26.]

§ 27. [As amended by Chapter 597, Acts of 1916.] The entire expense of conducting and administering the State Accident Fund as likewise all other expenses of the State Industrial Accident Commission shall be paid in the first instance by the State out of the moneys appropriated for the maintenance of the State Industrial Accident Commission and the payment of the salaries and expenses of said Commission and its officers and employes. In the month of January, nineteen hundred and eighteen, and annually thereafter in such month, the Commission shall ascertain the just expense incurred by the Commission during the preceding calendar year, in conducting and in the administration of the State Accident Fund, by including the salaries of the Superintendent of said fund and such other employes of the Commission whose services were rendered exclusively for said fund; and the amount of such salaries and expenses shall be chargeable to the State Accident Fund. And if there be employes of the Commission, other than the members themselves and the Secretary, whose time is devoted partly to the general work of the Commission and partly to the work of the State Accident Fund, and in case there are any other expenses which are incurred jointly on behalf of the general work of the Commission and the State Accident Fund, an equitable apportionment of the salaries of such employees and expenses shall be made by the Commission and the part thereof which is applicable to the State Accident Fund shall likewise be chargeable thereto; and the Commission shall authorize, in the same manner as other disbursements from the State Accident Fund are authorized, the whole amount so chargeable to the State Accident Fund to be transferred from said fund by the treasurer to the State Treasury to reimburse the State for the moneys so appropriated and expended in conducting and administering the State Accident Fund for the calendar year ending December thirty-first, nineteen hundred and seventeen and for each calendar year thereafter.

As soon as practicable after January first, nineteen hundred and eighteen, and annually thereafter, the Commission shall ascertain as fully and accurately as possible the total payroll of all the employers of this State, subject to the provisions of this Article, for the preceding calendar year, whether insured in the State Accident Fund, any stock company, or mutual association, or self-insured, and shall also calculate and ascertain the amount paid by the State for administrative expenses of the State Industrial Accident Commission during said preceding calendar year, excluding the amount chargeable to the State Accident Fund under the preceding paragraph of this section. The Commission shall then calculate and determine the percentage which the total amount of such salaries and expenses, other than the amount chargeable to the State Accident Fund, bore to the total payroll, ascertained as aforesaid for that year, of all the employers of this State subject to the provisions of this Article; and the percentage so calculated and determined shall be assessed against all such employers carrying their own insurance in proportion to their several payrolls, and all insurance carriers, including the State Accident Fund, in proportion to the aggregate payroll of employers insured therewith, as a special tax for the maintenance of the State Industrial Accident Commission, other than for conducting and administering

the State Accident Fund, for the calendar year ending December thirty-first, nineteen hundred and seventeen and for each calendar year thereafter; provided, however, that the total amount to be assessed against and paid by such insurance carriers and self-insurers shall not exceed sixty thousand dollars for any one year.

Payment of said taxes may be enforced by civil action in the name of the State of Maryland, and the amounts so assessed and collected by the Commission shall be paid into the State Treasury to reimburse the State for this portion of the expense of administering the Workmen's Compensation Law. And the Commission shall be and it is hereby clothed with such power and authority to examine payrolls and require reports from employers and insurance carriers as may be reasonable and necessary to carry out the provisions of this section and to adopt rules and regulations in regard thereto. [1914, ch. 800, sec. 27.]

§ 28. If this Article shall be hereafter repealed, all moneys which are in the State Accident Fund at the time of the repeal shall be subject to such disposition as may be provided by the Legislature, and in default of such legislative provision, distribution thereof shall be in accordance with the justice of the matter, due regard being had to obligations of compensation incurred and existing. [1914, ch. 800, sec. 28.]

CORPORATE INSURANCE.

§ 29. Every policy for the insurance of the compensation herein provided for, or against liability therefor, shall be deemed to be made subject to the provisions of this Article. No company or association shall enter into any such policy of insurance until such company or association shall first obtain from the Insurance Commissioner of Maryland a license of authority for the purpose, which said Commissioner of Insurance shall have full power and authority from time to time to determine the adequacy of its or their premium rates for carrying compensation insurance as provided in this law, and until the form of such policy shall have been approved by the State Industrial Accident Commission; and said Insurance Commissioner shall have full power and authority to require said insurance companies to establish and maintain adequate rates to cover respective risks to which their policies are applicable under the provisions of this Article. Any person violating the provisions of this Section shall be subject to a fine of not less than one hundred nor more than one thousand dollars for each offense. [1914, ch. 800, sec. 29.]

§ 30. Every policy of insurance covering the liability of the employer for compensation issued by a stock company or by a mutual association authorized to transact workmen's compensation insurance in this State, shall contain a provision setting forth the right of the Commission to enforce in the name of the State of Maryland for the benefit of the person entitled to the compensation insured by the policy either by filing a separate application or by making the insurance carrier a party to the original application, the liability of the insurance carrier in whole or in part for the payment of such compensation; provided, however, that payment in whole or in part of such com-

pensation by either the employer or the insurance carrier shall to the extent thereof be a bar to the recovery against the other of the amount so paid.

Every such policy shall contain a provision that, as between the employe and the insurance carrier, the notice to or knowledge of the occurrence of the injury on the part of the employer shall be deemed notice or knowledge, as the case may be, on the part of the insurance carrier; the jurisdiction of the employer shall, for the purpose of this Article, be jurisdiction of the insurance carrier and that the insurance carrier shall in all things be bound by and subject to the orders, findings, decisions or awards rendered against the employer for the payment of compensation under the provisions of this Article.

Every such policy shall contain a provision to the effect that the insolvency or brankruptcy of the employer shall not relieve the insurance carrier from the payment of compensation for injuries or death sustained by an employe during the life of such policy.

Every contract or agreement of an employer the purpose of which is to indemnify him from loss or damage on account of the injury of an employe by accidental means, or on account of the negligence of such employer or his officer, agent or servant, if engaged in extra-hazardous employment, shall be absolutely void unless it shall also cover liability for the payment of the compensation provided for by this Article.

No contract or insurance issued by a stock company or mutual association against liability arising under this Article shall be cancelled within the time limited in such contract for its expiration until at least ten days after notice of intention to cancel such contract, on a date specified in such notice, shall be filed in the office of the Commission and also served on the employer. Such notice shall be served on the employer by delivering it to him or by sending it by mail, by registered letter, addressed to the employer at his or its last known place of residence; provided, that if the employer be a partnership, then such notice may be so given to any one of the partners, and if the employer be a corporation, then the notice may be given to any agent or officer of the corporation upon whom legal process may be served. [1914, ch. 800, sec. 30.]

§ 31. Nothing herein shall affect any existing contract of policy of employer's liability insurance or the liability of any mutual insurance association, or any arrangement now existing between employers and employes, providing for the payment to such employes, their families, dependents or representatives of sick, accident or death benefits in addition to the compensation provided for by this Article; but liability for the compensation specified in this Article shall not be reduced or affected by any insurance, contribution or other benefit whatsoever, due to or received by the person entitled to such compensation, and the person so entitled shall, irrespective of any such insurance or other contract, have the right to recover the compensation directly from the employer. [1914, ch. 800, sec. 31.]

APPLICATION OF ARTICLE; EXTRA-HAZARDOUS EMPLOYMENTS.

§ 32. [As amended by Chapter 597, Acts of 1916.] Compensation provided for in this Article shall be payable for injuries sustained or death incurred by employes engaged in the following extra-hazardous employments:

1. The operation, including construction and repair, of railways operated by steam, electric or other motive power, street railways and incline railways, but not in their construction when constructed by any person other than the company which owns or operates the railways, including work of express, sleeping, parlor and dining car employes on railway trains.

2. Construction and operation of railways not included in parargraph one.

3. The operation, including construction and repair, of car shops, machine shops, steam and power plants, and other works for the purposes of any such railway, or used or to be used in connection with it when operated, constructed or repaired by the company which owns or operates the railway.

4. The operation, including construction and repair, of car shops, machine shops, steam and power plants, not included in paragraph 3.

5. The operation, including construction and repair, of telephone lines and wires for the purposes of the business of a telephone company, or used or to be used in connection with its business, when constructed or operated by the company.

6. The operation, including construction and repair, of telegraph lines and wires for the purposes of the business of a telegraph company, or used or to be used in connection with its business, when constructed or operated by the company.

7. Construction of telegraph and telephone lines not included in paragraphs 5 and 6.

8. The operation, within or without the State, including repair, of vessels other than vessels of other states or countries used in interstate or foreign commerce, when operated or repaired by the company.

9. Shipbuilding, including construction and repair in a ship yard or elsewhere, not included in paragraph 8.

10. Longshore work, including the loading or unloading of cargoes or parts of cargoes of grain, coal, ore, freight, general merchandise, lumber or other products or materials, or moving or handling the same on any dock, platform or place, or in any warehouse or other place of storage.

11. Subaqueous or caisson construction and pile driving.

12. Construction, installation or operation of electric light and electric power lines, dynamos or appliances and power transmission lines.

13. Paving, sewer and subway construction, work under compressed air, excavation, tunneling and shaft sinking, well digging, laying and repair of underground pipes, cables and wires, not included in paragraph 5 of this Section.

14. Lumbering, logging, river-driving, rafting, booming, saw mills, shingle mills, lath mills, manufacture of veneer and of excelsior, manufacture of staves, spokes or headings.

15. Pulp and paper mills.

16. Manufacture of furniture, interior woodwork, organs, pianos, piano actions, canoes, small boats, coffins, wicker and rattan ware, upholstering, manufacture of mattresses or bed springs.

17. Planing mills, sash and door factories, manufacture of wooden and corrugated paper boxes, cheese boxes, mouldings, window and door screens, window shades, carpet sweepers, wooden toys, articles and wares or baskets.

18. Mining, reduction of ores and smelting, preparation of metals or minerals.

19. Quarries; sand, shale, clay or gravel pits, lime kilns; manufacture of brick, tile, terra-cotta, fire-proofing, or paving blocks, manufacture of calcium carbide, cement, asphalt or paving material.

20. Manufacture of glass, glass products, glassware, porcelain or pottery.

21. Iron, steel or metal foundries; rolling mills; manufacture of castings, forgings, heavy engines, locomotives, machinery, safes, anchors, cables, rails, shafting, wires, tubing, pipes, sheet metal, boilers, furnaces, stoves, structural steel, iron or metal.

22. Operation and repair of stationary engines and boilers, not included in other paragraphs of this section.

23. Manufacture of small castings or forgings, metal wares, instruments, utensils and articles, hardware, nails, wire goods, screens, bolts, metal beds, sanitary, water, gas or electric fixtures, light machines, type-writers, cash registers, adding machines, carriage mountings, bicycles, metal toys, tools, cutlery, instruments, photographic cameras and supplies, sheet metal products, buttons.

24. Manufacture of agricultural implements, threshing machines, traction engines, wagons, carriages, sleighs, vehicles, automobiles, motor trucks, toy wagons, sleighs or baby carriages.

25. Manufacture of explosives and dangerous chemicals, corrosive acids or salts, ammonia, gasoline, petroleum, petroleum products, celluloid, gas, charcoal, gun powder or ammunition.

26. Manufacture of paint, color, varnish, oil, japans, turpentine, printing ink, printers' rollers, tar, tarred, pitched or asphalted paper.

27. Distilleries, breweries; manufacture of spirituous or malt liquors, alcohol, wine, mineral water or soda waters.

28. Manufacture of drugs and chemicals, not specified in paragraph 25, medicines, dyes, extracts, pharmaceutical or toilet preparations, soaps, candles, perfumes, non-corrosive acids or chemical preparations, fertilizers, including garbage disposal plants; shoe-blacking or polish.

29. Milling; manufacture of cereals or cattle foods, warehousing; storage; operation of grain elevators.

30. Packing houses, abattoirs, manufacture or preparation of meats or meat products or glue.

31. Tanneries.

32. Manufacture of leather goods and products, belting, saddlery, har-

ness, trunks, valises, boots, shoes, gloves, umbrellas, rubber goods, rubber shoes, tubing, tire or hose.

33. Canning or preparation of fruit, vegetables, fish or foodstuffs; pickle factories and sugar refineries.

34. Bakeries, including manufacture of crackers and biscuits, manufacture of confectionery, spices or condiments.

35. Manufacture of tobacco, cigars, cigarettes or tobacco products.

36. Manufacture of cordage, ropes, fibre, brooms or brushes; manilla or hemp products.

37. Flax mills; manufacture of textiles or fabrics, spinning, weaving and knitting manufactories; manufacture of yarn, thread, hosiery, cloth, blankets, carpets, canvas, bags, shoddy or felt.

38. Manufacture of men's or women's clothing, white wear, shirts, collars, corsets, hats, caps, furs or robes.

39. Power laundries; dyeing, cleaning or bleaching.

40. Printing, photo-engraving, stereotyping, electrotyping, lithographing, embossing; manufacture of stationery, paper, cardboard boxes, bags, or wall paper; and book-binding.

41. The operation, otherwise than on tracks, on streets, highways, or elsewhere of cars, trucks, wagons or other vehicles, and rollers and engines, propelled by steam, gas, gasoline, electric, mechanical or other power, or drawn by horses and mules.

42. Stone cutting or dressing; marble works; manufacture of artificial stone; steel building and bridge construction; installation of elevators, fire escapes, boilers, engines or heavy machinery; brick-laying, tile-laying, mason work, stone setting, concrete work, plastering; and manufacture of concrete blocks; structural carpentry; painting, decorating or renovating; sheet metal work; roofing; construction, repair and demolition of buildings and bridges; plumbing, sanitary or heating engineering; installation and covering of pipes or boilers.

43. In addition to the employments set out in the preceding paragraphs, this Article is intended to apply to all extra-hazardous employments not specifically enumerated herein. [1914, ch. 800, sec. 32.]

§33. Any employer, his employe or employes engaged in works not extra-hazardous within the meaning of this Article may, by their joint election, filed with the Commission, accept the provisions of this Article and such acceptances when approved by the Commission, shall subject them to the provisions of this Article to all intents and purposes as if they had been originally included in its terms.

Any workman of the age of sixteen years and upwards may himself exercise the election hereby authorized. The right of election hereby authorized shall be exercised on behalf of any workman under the age of sixteen years by his parent or guardian. Nothing herein shall be construed to apply to workmen of less than the minimum age prescribed by law for the employment of minors in the occupation in which such workman shall be engaged.

The provisions of this Article shall apply to employers and employes engaged in intra-state and also in interstate or foreign commerce for whom a rule of liability or method of compensation has been or may be established

by the Congress of the United States, only to the extent that their mutual connection with intra-state work may and shall be clearly separable and distinguishable from interstate or foreign commerce, except that any such employer and any of his workmen only in this State may, with the approval of the Commission, and so far as not forbidden by any Act of Congress, voluntarily accept the provisions of this Article by filing written acceptances with the Commission, which shall subject the acceptors to the provisions of this Article to all intents and purposes as if they had been originally included in its terms. [1914, ch. 800, sec. 33.]

§34. Whenever there shall have been enacted by the Congress of the United States and shall be in effect any act providing an exclusive remedy and compensation to employes of common carriers by railroad while employed in interstate or foreign commerce who sustain personal injury by accident arising out of and in the course of such employment and resulting in disability, or to the dependents of such employes in case such injury results in death, it shall be lawful for any such common carrier by railroad in this State and its employes or any of them, by agreement between such employer and employes, to provide for the payment by the employer of compensation in the amounts at the times and in the manner specified in said Act of Congress to any employe who, while employed by such employer in commerce or business wholly within this State, sustains personal injury by accident arising out of and in the course of his employment and resulting in his disability, or to the dependents, as defined in said Act of Congress, of such employe in case such injury results in his death; and in and by such agreement to stipulate and agree that, except as provided therein, such employer shall not be civilly liable for any injury to or death of any such employe resulting from any such accident.

If any such employer shall file with the Commission an instrument in writing under its corporate seal offering to enter into such an agreement with all and any of its employes in this State and referring to such Act of Congress, and shall cause notice of such offer filed to be published once each week for three successive weeks following the date of such filing in a newspaper published in each County in this State through which such employer runs regularly any freight or passenger train, and in two newspapers published in the City of Baltimore, if such employer runs regularly any freight or passenger train into or through said City, every employe of such employer shall be conclusively presumed to accept such offer of the employer and to have entered into such agreement, unless such employe shall, within thirty days after the filing of such offer by the employer, file with the Commission a notice in writing or statement declining such offer; and at the expiration of said period of thirty days the terms of said agreement shall be mutually binding upon the employer and upon every employe not so declining, but any employe or the employer may at any time by filing with the Commission not less than thirty days' notice in writing of his or its intention so to do, terminate such agreement upon his or its part as to all accidental injuries occurring after the expiration of such notice. [1914, ch. 800, sec. 33½.]

§ 35. Whenever the State, County, City or any municipality shall engage in any extra-hazardous work within the meaning of this Article in which

workmen are employed for wages, this Article shall be applicable thereto. Whenever and so long as by State law, City Charter or Municipal Ordinance, provision equal or better than that given under the terms of this Article is made for municipal employes injured in the course of employment such employes shall not be entitled to the benefits of this Article. [1914, ch. 800, sec. 34.]

CLAIMS AND COMPENSATION; BENEFITS.

§36. [As amended by Chapters 368 and 597, Acts of 1916.] Each employe (or in case of death his family or dependents), entitled to receive compensation under this Article shall receive the same in accordance with the following schedule, and except as in this Article otherwise provided, such payment shall be in lieu of any and all rights of action whatsoever against any person whomsoever.

1. Permanent total disability. In case of total disability adjudged to be permanent fifty per centum of the average weekly wages shall be paid to the employe during the continuance of such total disability, exclusive of the first week, not to exceed a maximum of twelve dollars per week and not less than a minimum of five dollars per week unless the employe's established weekly wages are less than five dollars per week at the time of the injury, in which event he shall receive compensation in an amount equal to his average weekly wages, but not to exceed a total of $5,000.00. Loss of both hands, or both arms, or both feet or both legs, or both eyes or of any two thereof shall, in the absence of conclusive proof to the contrary, constitute permanent total disability. In all other cases permanent total disability shall be determined in accordance with the facts.

2. Temporary total disability. In case of temporary total disability fifty per centum of the average weekly wages shall be paid to the employe during the continuance thereof, but not in excess of a maximum of twelve dollars per week and not less than a minimum of five dollars per week, in which event he shall receive compensation equal to his full wages; but in no case to continue more than six years from the date of the injury or to exceed thirty-seven hundred and fifty dollars in the aggregate.

3. Permanent partial disability. In case of disability partial in character but permanent in quality the compensation shall be fifty per centum of the average weekly wages in no case to exceed twelve dollars per week or more than three thousand dollars in the aggregate, and shall be paid to the employes for the period named in the schedule as follows:

Thumb. For the loss of a thumb—fifty weeks.

First Finger. For the loss of a first finger, commonly called the index finger—thirty weeks.

Second Finger. For the loss of a second finger—twenty-five weeks.

Third Finger. For the loss of a third finger—twenty weeks.

Fourth Finger. For the loss of a fourth finger, commonly called the little finger—fifteen weeks.

The loss of the second or distal phalange of the thumb shall be considered to be equal to the loss of one-half of such thumb; the loss of more than one-half of such thumb shall be considered to be equal to the loss of the whole thumb. The loss of the third or distal phalange of any finger shall be con-

sidered to be equal to the loss of one-third of such finger. The loss of the middle or second phalange of any finger shall be considered to be equal to the loss of two-thirds of such finger. The loss of more than the middle and distal phalange of any finger shall be considered to be equal to the loss of the whole of such finger; provided, however, that in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.

Great Toe. For the loss of the great toe—twenty-five weeks.

Other Toes. For the loss of one of the toes other than the great toe—ten weeks.

Hand. For the loss of a hand—one hundred and fifty weeks.

Arm. For the loss of an arm—two hundred weeks.

Foot. For the loss of a foot—one hundred and fifty weeks.

Leg. For the loss of a leg—one hundred and seventy-five weeks.

Eye. For the loss of an eye—one hundred weeks.

Loss of Use. Permanent loss of the use of the hand, arm, foot, leg or eye shall be considered as the equivalent of the loss of such hand, arm, foot, leg or eye, and for the loss of the fractional part of the vision of either one or both eyes the injured employe shall be compensated in like proportion to the compensation for total loss of vision.

Amputations. Amputation between the elbow and the wrist shall be considered as the equivalent of the loss of a hand. Amputation between the knee and the ankle shall be consideraded as the equivalent of the loss of a foot. Amputation at or above the elbow shall be considered as the loss of an arm. Amputation at or above the knee shall be considered as the loss of the leg.

The compensation for the foregoing specific injuries shall be in lieu of all other compensations, except the benefits provided in Section 37 of this Article.

Other Cases. In all other cases in this class of disability the compensation shall be fifty *per centum* of the difference between his average weekly wages and his wage-earning capacity thereafter in the same employment or otherwise, if less than before the accident (but not to exceed twelve dollars per week), payable during the continuance of such partial disability, but not to exceed $3,000.00, and subject to reconsideration of the degree of such impairment by the commission on its own motion or upon application of any party in interest.

In all cases where there has been an amputation of a part of any member of the body herein specified or the loss of the use of any part thereof, for which compensation is not specifically provided herein, the Commission shall allow compensation for such proportion of the total number of weeks allowed for the amputation or the loss of the use of the entire member, as the affected or amputated portion thereof bears to the whole.

4. Temporary Partial Disability. In case of temporary partial disability, except the particular cases mentioned in subdivision three of this section, an injured employee shall receive fifty *per centum* of the difference between his average weekly wages and his wage-earning capacity thereafter in the same employment or otherwise, if less than before the accident, during the continuance of such partial disability, but not in excess of three thousand five hundred dollars, except as otherwise provided in this Article.

In case the injury causes death within the period of two years, the benefits shall be in the amounts and to the persons following:

If there be no dependents, the disbursements shall be limited to the expenses provided for in Section thirty-seven hereof.

If there are wholly dependent persons at the time of the death, the payment shall be fifty per cent. of the average weekly wages, and to continue for the remainder of the period between the date of the death and eight years after the date of the injury, and not to amount to more than a maximum of four thousand two hundred and fifty dollars, nor less than a minimum of one thousand dollars.

If there are partly dependent persons at the time of the death, the payment shall be fifty per cent. of the average weekly wages, and to continue for all or such portion of the period of eight years after the date of the injury, as the Commission in each may determine, and not to amount to more than a maximum of three thousand dollars.

The following persons shall be presumed to be wholly dependent for support upon a deceased employe: A wife or invalid husband ("Invalid" meaning one physically or mentally incapacitated from earning), a child or children under the age of sixteen years (or over said age if physically or mentally incapacitated from earning) living with or dependent upon the parent at the time of the injury or death.

In all other cases, questions of dependency, in whole or in part, shall be determined in accordance with the facts in each particular case existing at the time of the injury resulting in death of such employe, but no person shall be considered as dependent unless such person be a father, mother, grandfather, grandmother, stepchild or grandchild, or brother or sister of the deceased employe, including those otherwise specified in this section.

Compensation under this Article to alien dependent widows, children and parents, not residents of the United States, shall be the same in amount as is provided in each case for residents, except that, at any time within one year after an accident resulting in death, the Commission may in its discretion convert any payments thereafter to become due to such beneficiaries into a lump sum payment, not in any case to exceed twenty-four hundred dollars, by paying a sum equal to three-fourths of the then value of such payments.

Non-resident alien dependents may be officially represented by the Consular officers of the nation of which such alien or aliens may be citizens or subjects, and in such cases the Consular officers shall have the right to receive, for distribution to such non-resident alien dependents, all compensation awarded hereunder, and the receipt of such Consular officers shall be a full discharge of all sums paid to and received by them. [1914, ch. 800, sec. 35.]

§ 37. [As amended by Chapter 597, Acts of 1916.] In addition to the compensation provided for herein the employer shall promptly provide for an injured employe, such medical, surgical or other attendance or treatment, nurse and hospital services, medicines, crutches, and apparatus as may be required by the Commission in an amount not to exceed one hundred and fifty dollars ($150.00). If the employer fail to provide the same the injured employe may do so at the expense of the employer. All fees and other charges for such treatment and services shall be subject to regulations by

the commission, and shall be limited to such charges as prevail in the same community for similar treatment of injured persons of a like standard of living, and in case death ensues from the injury within two years, reasonable funeral expenses shall be allowed not to exceed the sum of seventy-five dollars ($75). Provided, however, that if there are no dependents and the deceased employe leaves sufficient estate to pay same, all expenses of last sickness and burial shall be paid by said estate and not by the employer or insurance company, or Commission out of the State Accident Fund, as the case may be. The Commission shall have full power to adopt rules and regulations with respect to furnishing medical, nurse, hospital services and medicine to injured employes entitled thereto and for the payment therefor. [1914, ch. 800, sec. 36.]

§ 38. Notice of an injury for which compensation is payable under this Article shall be given to the employer within ten days after the accident, and also in case of the death of the employe resulting from such injury, within thirty days after such death. Such notice may be in writing, and contain the name and address of the employe, and state in ordinary language the time, place, nature and cause of the injury, and be signed by him or by a person on his behalf, or in case of death, by any one or more of his dependents, or by a person on their behalf. The failure to give such notice, unless excused by the Commission either on the ground that notice for some sufficient reason could not have been given, or on the ground that the State Accident Fund, insurance company, or employer, as the case may be, has not been prejudiced thereby, shall be a bar to any claim under this Article.

Whenever an accident occurs to any employe it shall be the duty of the employer to at once report such accident and the injury resulting therefrom to the Commission, and also to any local representative of the Commission. Such report shall state (a) the time, cause and nature of the accident and injuries, and the probable duration of the injury resulting therefrom; (b) whether the accident arose out of or in the course of the injured person's employment; (c) any other matters the rules and regulations of the Commission may prescribe. [1914, ch. 800, sec. 37.]

§ 39. [As amended by Chapter 597, Acts of 1916.] When an employe is entitled to compensation under this Article he shall file with the Commission his application together with the certificate of the physician, if any, who attended him, within thirty days after the beginning of his disability, for which compensation is claimed, and failure to do so unless excused by the Commission, either on the ground that the insurance carrier or the employer has not been prejudiced thereby, or for some other sufficient reason, shall be a bar to any claim under this Article.

When death results from injury the parties entitled to compensation under this Article or someone in their behalf, shall make application for the same to the Commission, which application must be accompanied with proof of death and proof of relationship showing the parties to be entitled to compensation under this Article, certificates of attending physician, if attended by a physician, and such other proof as may be required by the rules of the Commision. [1914, ch. 800, sec. 38.]

§ 40. The Commission shall make or cause to be made such investigation

of any claim as it deems necessary, and upon application of either party, shall order a hearing and within thirty days after a claim for compensation is submitted under this section, or such hearing closed, shall make or deny an award, determine such claim for compensation, and file the same in the office of the Commission, together with a statement of its conclusions of fact and rulings of law. The Commission may, if it deems proper, on the written application of any party in interest, or on its own motion, require the claimant to appear before an arbitration committee appointed by it and consisting of one representative of employes, one representative of employers, and either a member of the Commission or a person specially deputized by the Commission to act as chairman, before which the evidence in regard to the claim shall be adduced and by which it shall be considered and reported upon with the right of either party to appeal to the Commission from the finding of said arbitration committee on all questions of law and fact.

If changes of circumstances warrant an increase or rearrangement of compensation, like application shall be made. No increase or rearrangement shall be operative for any period prior to application therefor. [1914, ch. 800, sec. 39.]

§ 41. Any person who shall knowingly secure or attempt to secure larger compensation or compensation for a longer term than he is entitled to, or knowingly secure or attempt to secure compensation when he is not entitled to any, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding five hundred dollars or imprisoned not exceeding twelve months, or both, in the discretion of the Court, and shall from and after such conviction, cease to receive any compensation. [1914, ch. 800, sec. 40.]

§ 42. Any employe entitled to receive compensation under this Article is required, if requested by the Commission to submit himself for medical examination at a time and from time to time at a place reasonably convenient for the employe and as may be provided by the rules of the Commission. If the employe refuse to submit to any such examination, or obstructs the same, his right to compensation shall be suspended until such examination has taken place, and no compensation shall be payable during or for account of such period. [1914, ch. 800, sec. 41.]

§ 43. Should a further accident occur to an employe already receiving payment under this Article for a disability, or who has been previously the recipient of a lump sum payment under this Article, his future compensation shall be adjusted according to the other provisions of this Article and with regard to the combined effect of his injuries and his past receipt of compensation under this Article. In case of the remarriage of a dependent widow of a deceased employe without dependent children, all compensation under this Article shall cease, and further no widow or widower shall receive any benefits under this Article where the marriage shall have taken place after the person entitled to benefits hereunder shall have been injured, provided there are no dependent children.

If aggravation, diminution or termination of disability takes place or be discovered after the rate of compensation shall have been established or compensation terminated in any case, the Commission may, upon the application

of any party in interest or upon its own motion, readjust for future application the rate of compensation in accordance with rules in this Section provided, or in a proper case, terminate the payments.

A husband or wife of an injured employe, who has deserted said employe for more than one year prior to the time of the injury or subsequently shall not be a beneficiary under this Article.

In case of the remarriage of a dependent widow of a deceased employe without dependent children, all compensation under this Article shall cease, and further no widow or widower shall receive any benefits under this Article where the marriage shall have taken place after the person entitled to benefits hereunder shall have been injured, provided there are no dependent children. [1914, ch. 800, sec. 42.]

§ 44. If a beneficiary shall reside or remove out of the State and shall have been such non-resident for a period of one year, the Commission may in its discretion convert any payments thereafter to become due to such beneficiary into a lump sum payment, not in any case to exceed twenty-four hundred dollars by paying a sum equal to three-fourths of the then value of such payments. [1914, ch. 800, sec. 43.]

§ 45. If injury or death results to a workman from the deliberate intention of his employer to produce such injury or death, the employe, the widow, widower, child, children or dependents of the employe shall have the privilege either to take under this Article or have cause of action against such employer, as if this Article had not been passed. [1914, ch. 800, sec. 44.]

§ 46. [As amended by Chapter 597, Acts of 1916.] Notwithstanding anything hereinbefore or hereinafter contained, no employe or dependent of any employe shall be entitled to receive any compensation or benefits under this Article on account of any injury to or death of an employe caused by self-inflicted injury, the wilful misconduct, or where the injury or death resulted solely from the intoxication of the injured employe. [1914, ch. 800, sec. 45.]

§ 47. If it be established that the injured employe was of such age and experience when injured as that under the natural conditions his wages would be expected to increase, this fact may be considered in arriving at his average weekly wage. [1914, ch. 800, sec. 46.]

§ 48. A minor working at an age legally permitted under the laws of this State shall be deemed *sui juris* for the purposes of this Article, and no other person shall have any cause of action or right to compensation for any injury to such minor employe unless otherwise herein provided. [1914, ch. 800, sec. 47.]

§ 49. No compensation shall be allowed for two weeks after the injury is received except disbursements herein authorized for medical, nurse and hospital services and medicines, and for funeral expenses. [1914, ch. 800, sec. 48.]

§ 50. The benefits in case of death shall be paid to such one or more of the dependents of the decedent for the benefit of all the dependents as may be determined by the Commission, which may apportion the benefits among the dependents in such manner as it may deem just and equitable. The dependent or persons to whom benefits are paid shall apply the same to the use of the several beneficiaries thereof according to their respective claims upon

the decedent for support, in compliance with the findings and direction of the Commission. [1914, ch. 800, sec. 49.]

§ 51. In every case providing for compensation to an employe or his dependent, excepting temporary disability, the Commission may, if in its opinion the facts and circumstances of the case warrant it, allow the compensation to be paid in a partial or total lump sum. [1914, ch. 800, sec. 50.]

§ 52. No money payable under this Article shall prior to issuance and delivery of the warrant or voucher therefor, be capable of being assigned, charged or taken in execution or attachment. [1914, ch. 800, sec. 51.]

§ 53. No employer or employe who are subject to the provisions of this Article shall exempt himself from the burden or waive the benefit of this Article by any contract, agreement, rule or regulation, and any such contract, agreement, rule or regulation shall be *pro tanto* void. No agreement by such employe to pay any portion of the premium paid by such employer shall be valid, and any employer who deducts any portion of such premium from the wages or salary of any employe entitled to the benefits of this Article shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than two hundred dollars for each offense. [1914, ch. 800, sec. 52.]

§ 54. The powers and jurisdiction of the Commission over each case shall be continuing and it may from time to time make such modifications or change with respect to former findings or orders with respect thereto as in its opinion may be justified. [1914, ch. 800, sec. 53.]

§ 55. If an employe shall be injured because of the absence of any safeguard or protection required by the Commision, the employer shall be guilty of a misdemeanor and liable to a fine of not less than $50.00 or more than $500.00 to be paid into the State Accident Fund. [1914, ch. 800, sec. 54.]

APPEALS.

§ 56. Any employer, employe, beneficiary or person feeling aggrieved by any decision of the Commission affecting his interests under this Article may have the same reviewed by a proceeding in the nature of an appeal and initiated in the Circuit Court of the County or in the Common Law Courts of Baltimore City having jurisdiction over the place where the accident occurred or over the person appealing from such decision, and the court shall determine whether the Commission has justly considered all the facts concerning injury, whether it has exceeded the powers granted it by the Article, whether it has misconstrued the law and facts applicable in the case decided. If the Court shall determine that the Commission has acted within its powers and has correctly construed the law and facts, the decision of the Commission shall be confirmed, otherwise it shall be reversed or modified. Upon the hearing of such an appeal the Court shall, upon motion of either party filed with the clerk of the court according to the practice in civil cases, submit to a jury any question of fact involved in such case. The proceedings in every such an appeal shall be informal and summary, but full opportunity to be heard shall be had before judgment is pronounced. No such appeal shall be entertained unless notice of appeal shall have been served personally upon some member of the Commission within thirty days following the rendition of the decision appealed from. An appeal shall not be a stay. If the

decision of the Commission shall be changed or modified, the practice prevailing in civil cases as to the payment of costs and the fees of medical and other witnesses shall apply. Appeal shall lie from the judgment of the Circuit Court of the County or the Common Law Courts of Baltimore City to the Court of Appeals as in other civil cases, and such appeals, shall have precedence over all cases except criminal cases.

The attorney-general shall be the legal adviser of the Commission and shall represent it in all proceedings whenever so requested by any of the commissioners. In all court proceedings under or pursuant to this Article, the decision of the Commision shall be *prima facie* correct and the burden of proof shall be upon the party attacking the same. [1914, ch. 800, sec. 55.]

§ 57. If the Commission or the Court before which any proceedings for compensation or concerning an award of compensation have been brought, under this Article, determines that such proceedings have not been so brought upon reasonable ground, it shall assess the whole cost of the proceeding upon the party who has so brought them. Claims for legal services in connection with any claims arising under this Article and claims for services or treatment rendered or supplies furnished pursuant to Section 37 of this Article, shall not be enforceable unless approved by the Commission. If so approved, such claim or claims shall become a lien upon the compensation awarded, but shall be paid therefrom only in the manner fixed by the Commission. [1914, ch. 800, sec. 56.]

MISCELLANEOUS.

§ 58. Where the injury or death for which compensation is payable under this Article was caused under circumstances creating a legal liability in some person, other than the employer, to pay damages in respect thereof, the employe or, in case of death, his personal representative or dependents as hereinbefore defined, may proceed either by law against that other person to recover damages or against the employer for compensation under this Article, or in case of joint *tort feasors* against both; and if compensation is claimed and awarded or paid under this Article any employer may enforce for the benefit of the insurance company or association carrying the risk or the State Accident Fund, or himself, as the case may be, the liability of such other person; provided, however, if damages are recovered in excess of the compensation already paid or awarded to be paid under this Article, then any such excess shall be paid to the injured employe or, in case of death, to his dependents, less the employer's expenses and costs of action. [1914, ch. 800, sec. 57.]

§ 59. If the provisions of this Article relative to compensation for injuries to or death of employes become invalid because of any adjudication, or be repealed, the period intervening between the occurrence of an injury or death, not previously compensated for under this Article by lump payment or completed periodical payments shall not be computed as a part of the time limited by law for the commencement of any action relating to such injury or death. Provided, that such action be commenced within one year after such repeal or adjudication, but in any such action any sum paid to the employe on account of injury for which the action is prosecuted, shall be taken

into account or disposed of as follows: If the defendant employer shall have insured himself as provided for in this Article without delinquency, such sums as may have been paid to the employe or his dependents on account of injury or death, shall be credited upon recovery as payment thereon. [1914, ch. 800, sec. 58.]

§ 59A. [Added by Chapter 597, Acts of 1916.] It shall be the duty of the clerk of the Court to which a case is sent on appeal, under the preceding section, to send to the Commission a duly certified copy of the docket entries, and judgment of the Court in each case heard and determined on appeal.

§ 60. If any employer shall be adjudicated to be outside the lawful scope of this Article, the Article shall not apply to him or his employes; if any employe shall be adjudicated to be outside the lawful scope of this Article, because of remoteness of his work from the hazard of his employer's work, any such adjudication shall not impair the validity of this Article in other respects, and in every such case an accounting in accordance with the justice of the case shall be had of moneys received. [1914, ch. 800, sec. 59.]

§ 60A. [Added by Chapter 597, Acts of 1916.] When any person as a principal contractor, undertakes to execute any work which is a part of his trade, business or occupation which he has contracted to perform and contracts with any other person as sub-contractor, for the execution by or under the sub-contractor, of the whole or any part of the work undertaken by the principal contractor, the principal contractor shall be liable to pay to any workman employed in the execution of the work any compensation under this Article which he would have been liable to pay if that workman had been immediately employed by him; and where compensation is claimed from or proceedings are taken against the principal contractor, then, in the application of this Article, reference to the principal contractor shall be substituted for reference to the employer, except that the amount of compensation shall be calculated with reference to the earnings of the workman under the employer by whom he is immediately employed.

Where the principal contractor is liable to pay compensation under this section, he shall be entitled to indemnity from any employer, who would have been liable to pay compensation to the employe independently of this section, and shall have a cause of action therefor against such employer.

Nothing in this section shall be construed as preventing a workman from recovering compensation under this Article from the sub-contractor instead of from the contractor.

Whenever an employe of a sub-contractor files a claim under this Article against the principal contractor, the principal contractor shall have the right to join the sub-contractor or any intermediate contractors as defendant or co-defendant in the case.

§ 61. The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this Article; but this Article shall be so interpreted and construed as to effectuate its general purpose. [1914, ch. 800, sec. 60.]

§ 62. In any proceeding for the enforcement of a claim for compensation under this Article, it shall be presumed in the absence of substantial evidence to the contrary:

(a) That the claim comes within the provisions of this Article.

(b) That sufficient notice thereof was given.

(c) That the injury was not occasioned by the wilful intention of the injured employe to bring about the injury or death of himself or of another.

(d) That the injury did not result solely from the intoxication of the injured employe while on duty. [1914, ch. 800, sec. 61.]

§ 63. [As amended by Chapters 86 and 597, Acts of 1916.] Definitions as used in this Article:

1. "Extra-hazardous employment" means a work or occupation described in Section 32 of this Article.

2. "Employer," except when otherwise expressly stated, means a person, partnership, association, corporation, and the legal representatives of a deceased employer, or the receiver or trustee of a person, partnership, association or corporation employing workmen in extra-hazardous employments.

3. "Employe" means a person who is engaged in an extra-hazardous employment in the service of an employer carrying on or conducting the same upon the premises or at a plant, or in the course of his employment away from the plant of his employer, and shall not include farm laborers. "Farm laborers" as used in this Article shall mean any employes who, at the time of the accident, are engaged in rendering any agricultural service, including the thrashing and harvesting of crops, or who, at the time of the accident, are engaged in service incidental to and in connection with agricultural pursuits or developments, whether the employer be the farmer or other person undertaking or contracting with the farmer to perform any such agrictultural service, pursuit or development. This Article shall not apply to farm laborers, domestic servants nor to country blacksmiths, wheelwrights or similar rural employments, nor in any case where the accident occurred before this Article takes effect, nor to casual employes or any employe whose salary is in excess of two thousand dollars a year, or any employes who are employed wholly without the State.

4. "Employment" includes employment only in a trade, business or occupation carried on by the employer for pecuniary gain.

5. "Compensation" means the money allowance payable to an employe or to his dependents as provided for in this Article, and includes funeral benefits provided therein.

6. "Injury" and "Personal Injury" mean only accidental injuries arising out of and in the course of employment and such disease or infection as may naturally result therefrom.

7. "Death" when mentioned as a basis for the right to compensation means only death resulting from such injury.

8. "Average weekly wages" for the purposes of this Article shall be taken to mean the average weekly wages earned by an employe when working on full time.

9. "State Accident Fund" means the State Insurance Fund provided for in Section 16 of this Article.

10. "Child" shall include a posthumous child and a child legally adopted prior to the injury of the employe.

11. "Beneficiary" means a husband, wife, child, children or dependents

of an employe in whom shall vest a right to receive payment under this Article.

12. [Added by Chapter 86, Acts of 1916.] "Mining" means all underground workings by shaft, drift, slope or otherwise, for the securing, removing and taking out from under the ground coal, iron ore, clays, and all other minerals and mineral substances, found in and under the earth, and shall mean all work done by any miner or employe working in and about said mines in said shafts, slopes, headings, tunnels, rooms and other subterranean places therein, for the purposes of obtaining and removing therefrom all such minerals and mineral substances, and the benefits of this Article shall be extended to any employe, or in case of his death, to his dependent relatives, otherwise entitled, who shall be killed or injured while so working or employed therein, and such mine worker shall be deemed to be wholly employed in the State of Maryland, and entitled to the benefits of this Article, if the tipple, mouth or principal mine entrance in and about which he works, is situated in this State, notwithstanding such shaft, heading, slope or other subterranean tunnel may extend underground into an adjoining State, and notwithstanding such mine worker so employed in this State may be killed or injured while working in said mine beyond the lines of this State, and within the lines of an adjoining State. [1914, ch. 800, sec. 62.]

§ 64. The sum of Forty Thousand Dollars ($40,000) annually for the years 1914, 1915 and 1916, or so much thereof as may be necessary annually for the maintenance of the State Industrial Accident Commission and the payment of the salaries and expenses of said Commission and its officers and employes, and so much thereof, if any, as may be necessary to maintain a solvent State Accident Fund, is hereby appropriated, and shall be payable on the order or orders of the said Commission from time to time, as in this law provided; and the Comptroller shall draw his warrant upon the Treasurer of Maryland, as in law provided, for the annual appropriations. And a further appropriation is hereby made of the sum of Fifteen Thousand Dollars for the year 1914 for the necessary expenses of the aforesaid State Industrial Accident Commission to cover printing, office fixtures and such other legitimate expenses as the Commission may incur in establishing their office or offices as in this Article contemplated and the Comptroller of the State of Maryland shall draw his warrant upon the Treasurer of Maryland for the said sum of Fifteen Thousand Dollars ($15,000), or any part thereof, upon the order or orders presented to the State Comptroller by the said State Industrial Accident Commission. [1914, ch. 800, sec. 63.]

*§ 64. [Chapter 800, Acts of 1914.] *And be it further enacted by the General Assembly of Maryland,* That Chapter 153 of the Acts of 1910, as amended by Chapter 445 of the Acts of 1912 of the General Assembly of Maryland be and the same are hereby repealed, except for the purpose of providing confirmation for all claims which may arise thereunder, prior to the first day of November, 1914; and if after all such claims are paid, there be a surplus in the fund, it shall be turned over to the Treasurer of Maryland for the account of the State Industrial Accident Fund, but if there be a deficit in

* Sections 64, 65 and 66 of Chapter 800, Acts of 1914, are omitted in the Code and their substance put in a foot-note.

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said fund at the time this Act takes effect as between employers and employes, the payments provided for under Chapter 153 of the Acts of 1910 as amended by Chapter 445 of the Acts of 1912 shall be continued by the employer and employes of Allegany and Garrett Counties to the Treasurers of said counties until such pending claims are paid, when said payments shall cease.

*§ 65. [Chapter 800, Acts of 1914.] *And be it further enacted by the General Assembly of Maryland,* That the Acts of 1902, Chapter 139; and the Acts of 1912, Chapter 837, be and the same are hereby repealed; and that all Acts or parts of Acts in conflict with this Act are hereby repealed to the extent that they conflict with this Act and no further.

*§ 66. [Chapter 800, Acts of 1914.] *And be it further enacted,* That this Act shall take effect from the date of its passage, but that its application as between employers and employes shall date from and include the first day of November, one thousand nine hundred and fourteen.

Approved:
P. L. Goldsborough,
Governor.
Jesse D. Price,
President of the Senate.
Jas. McC. Trippe,
Speaker of The House of Delegates.

*Sections 64, 65 and 66 of Chapter 800, Acts of 1914, are omitted in the Code and their substance put in a foot-note.

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